

**Report to Statewide Water Advisory Group Lot Split Subcommittee
November 14, 2006
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At the October 27 meeting of the SWAG subcommittee on lot splits, it became apparent that some additional information was needed to understand the issue of how water adequacy requirements tied to new subdivisions could impact lot split activity in Arizona Counties. As a follow-up to that meeting the following questions were put to the County Planning Directors in Arizona:

“What do you think the impact would be in your county if water adequacy was required for all new subdivisions? Would there be a big increase in lot splits and a decrease in subdivision activity?” This was done informally by email and is unscientific, but provides some indication of different perspectives across the state. It should also be noted that the responses are not intended to represent any official county position from any of the respondents. The County Planning Directors will be meeting on December 1 and can continue this discussion if there is a desire for follow-up.

Counties really seem to be all over the map with what their requirements for subdivisions currently are. While some counties already consider water adequacy a requirement with subdivisions, what that means varies from county-to-county and seems to be in part dependant on what type of subdivision activity they experience (smaller lots vs. larger lots) and what the actual water availability is. In some counties, such as Cochise, water appears to be available and developable, whereas in Coconino County the opposite is true. Yavapai County has a policy to require water adequacy, but it appears to have acted as a deterrent to developers and the result is more lot splits.

In Pima County, which is within an AMA, there are sentiments that the assured water supply is not meaningful enough, so they question the value of the adequacy requirement being considered by the SWAG.

The following is a breakdown of the responses and significant issues.

Coconino

With the depth to water in most unincorporated areas of the county over 1200', it is virtually impossible for any subdivision to demonstrate adequacy per ADWR rules, thus if that became a requirement for all new subdivisions it would virtually put an end to subdivisions in Coconino County and significantly increase in the number of lot splits.

The resulting problem is that the lot splits rely on hauled water. In years of drought regional municipalities, including Flagstaff and Williams, have discussed cutting off sales to water haulers outside the city limits. Of course this affects both lot split areas and dry lot subdivisions.

Cochise

Cochise County requires water adequacy with subdivisions, although there is a provision for a waiver if the ADWR determination comes back as inadequate. The waiver requires justification.

They allow dry lot subdivisions but still require ADWR determination of adequacy. Cochise County did support a waiver from this requirement where the determination of inadequacy was based on the economics of having individual lot owners develop wells deeper than 400 ft. Apparently it was in an area where well depths were as deep as 600 ft. and physical supply was reportedly not an issue, but cost associated with the additional depth was. According to Cochise County, ADWR rarely reports inadequacy for subdivisions in their jurisdiction.

Water hauling is not a common practice in Cochise County.

Mohave

Mohave County currently requires adequacy with some subdivisions, but not all. Subdivisions with lots over 5 acres are not required to have an adequate supply. Also, if the determination for those subdivisions with lots under 5 acres is inadequate, the developer can hire his own hydrologist to study the aquifer and present a report to the Board as to whether they believe there is sufficient water to support the development for a period of 100 years.

Yavapai

The Yavapai County Board of Supervisors has a policy not to approve subdivisions without an adequate water supply. This has reportedly deterred some developers from the subdivision process in favor of lot splits. The Board may be reconsidering this policy.

Subdivisions with lot sizes over 2 acres can have individual wells, but the Board still requires a statement of water adequacy. Fractured rock and depth to water appear to be two problems affecting the ability to get adequacy in some areas of Yavapai County.

La Paz

La Paz anticipates an increase in lot split activity and fewer subdivisions if an adequacy requirement were tied to new subdivisions.

Pima

Pima County is within an Active Management Area which requires a 100 year Assured Supply for subdivisions. There is an impression that that AMA requirement isn't strong enough to be meaningful, and thus presume the adequacy requirement has even less teeth and wouldn't mean much for lot splits.

Yuma

Yuma County requires water systems for subdivisions for lots less than one acre in size. For lots over one acre they require a well, access to a well, or the subdivider must identify the cost of providing a well from an identified source. With these requirements already in place, Yuma County doesn't anticipate an adverse impact on lot splits if a water adequacy requirement was added for new subdivisions.

Conclusion

The responses received indicate that the issue is complex and there is not a "one-size-fits-all" recommendation. In order to get a better understanding of the issue there would need to be follow-up with the counties that did not respond, and to get clarification and additional information from those that did.

The following are some suggestions and questions that arose from the email survey.

Suggestions

- Require "lot splitters" to sign a document acknowledging that if development occurs adjacent to or near their lot split area and they have an exempt well, that there are no guarantees regarding any adverse impacts to the well, and that they are on notice that such impacts may occur. A similar approach could address lot splits relying on hauled water with acknowledgment of the unreliable nature of hauled water as a permanent source. (This is one idea that was suggested, but there has been no discussion about its merits or if it addresses the underlying issue.)
- The State should fund grants for each County through ADWR to investigate existing water resources outside AMA's and determine whether Comprehensive Plans are "realistic" with regard to density and build-out populations.
- Tie adequacy requirements to ADRE Unsubdivided Lands Process.

Questions

- Are the ADWR adequacy requirements of these counties based on cumulative supply?

- What are ADWR standards of adequacy for dry lot subdivisions?
- What percent of rural properties rely on hauled water?
 - What percent rely on commercial water haulers?
 - What percent haul the water themselves?
- Is the water adequacy requirement proposal a result of a genuine concern about water supply, or just a tool to limit development?
- What is the breakdown of lot splits vs. subdivisions in each County? (e.g. Coconino County estimates that in recent years there is approximately the same number of lots created by lot split as by subdivision.)
- How does the passing of Proposition 207 impact the work of the SWAG and any recommendations to change state law?